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UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

RICHARD BEST,

Defendant.

Case No. 1:22-cr-00241-JLT-SKO

**UNITED STATES' MOTION IN LIMINE #1
TO EXCLUDE CERTAIN EVIDENCE AND
ARGUMENT AT TRIAL**

DATE: TBD
TIME: TBD
JUDGE: Honorable Jennifer L. Thurston

The United States of America (the "United States") submits this motion in limine to exclude certain evidence and argument at trial (the "Motion"). For the reasons set forth herein, the Motion should be granted.

I. BACKGROUND

A. Procedural History

On September 1, 2022, a federal grand jury returned an indictment charging Defendant Richard Best ("Defendant") with three counts: (1) one charge for conspiracy to commit wire fraud, in violation of Title 18, United States Code, Section 1349; and (2) two charges for wire fraud, in violation of Title 18, United States Code, Section 113(a)(4). [ECF #1 at 1, 6].

1 On September 3, 2025, the Court issued a pretrial order, including a motion schedule, with initial
2 moving papers due on October 6, 2025, at 4:00 p.m. [ECF #57]. Oppositions to motions in limine are
3 due on October 17, 2025. If necessary, the Court will schedule a motion hearing. *Id.*

4 A jury trial is scheduled for November 4, 2025, at 8:30 a.m. *Id.* At trial, the United States will
5 prove beyond a reasonable doubt that at latest, in or around January 2015, and continuing until at least in
6 or around February 2017, Defendant and Shawn Sawa (the “co-defendant”) knowingly and intentionally
7 agreed, combined, and conspired with each other, to execute and attempt to execute, by wire
8 communications in interstate commerce, a material scheme to defraud various companies, and to obtain
9 property owned by and under the custody and control of said companies (namely canola meal pellets),
10 by means of materially false and fraudulent pretenses, representations, and promises. The United States
11 will also prove beyond a reasonable doubt that Defendant, in executing this scheme to defraud,
12 knowingly transmitted and caused to be transmitted, by means of wire communications in interstate
13 commerce, a wire transfer on January 5, 2017, of \$20,000 from Texas to Defendant’s bank account in
14 the State and Eastern District of California, and an email of a company’s inventory reports from
15 Defendant’s inventory manager, then-located in the State and Eastern District of California, to that
16 company, whose recipient was then-located in the state of Illinois.

17 Prior to submission of this motion, the parties met and conferred as to the motion in limine and
18 possible resolutions.

19 **B. Evidence and Arguments at Issue**

20 The United States seeks to exclude three sets of evidence for various purposes.

21 **First**, the United States seeks to exclude evidence of the outcomes of the related civil cases and
22 the settlement negotiations therein.

23 In one case, Richard Best Transfers, Inc., Defendant’s company, sued one of the victim entities
24 under various claims, including breach of contract. *See Richard Best Transfers, Inc. v. Archer Daniels*
25 *Midland, et al.*, No. 17CECG0122 (Fresno Sup. Ct.). The victim entity then filed a cross-complaint
26 against, *inter alia*, Defendant and his co-defendant, under various causes of action, claiming that
27 Defendant and his co-conspirators stole and sold the victim entity’s canola product. The parties
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1 ultimately settled without going to trial. *See id.* at (10-2-23, Request for Dismissal of Complaint and
2 Request for Dismissal of Cross- Complaint).

3 In another case, Richard Best Transfers, Inc. sued, *inter alia*, Mahlenium Insurance Services,
4 Inc., an insurance company, for negligence, seeking to recoup the value of cattle feed, including 3,500
5 tons of canola allegedly destroyed by rain. *See Richard Best Transfers, Inc. v. Mahlenium Ins. Servs., et*
6 *al.*, No. 18CECG02797 (Fresno Sup. Ct.). The parties ultimately settled without going to trial. *See id.*
7 at (9-28-21, Request for Dismissal of Complaint).

8 Based on conversations with opposing counsel and Defendant's filings with the Court, the
9 United States believes Defendant seeks to characterize to the jury that the settlements, including an
10 insurance payout, and the negotiations leading up to the agreements, are indicative of Defendant's
11 innocence. *See, e.g.*, [ECF #59 at 2 (stating "the civil case settled unfavorably for [victim entity]")].
12 For instance, Defendant appears to be planning to claim that an insurance payout is proof that canola, in
13 fact, was destroyed by rain as opposed to being stolen.

14 As detailed in the argument section, however, such evidence is irrelevant, barred by Rule 408,
15 and substantially likely to confuse and mislead the jury.

16 This request, however, is not a blanket request to exclude all evidence stemming from the civil
17 cases. The United States does not object to the admission of evidence from the civil cases to the extent
18 such evidence is otherwise relevant and admissible (e.g., Defendant's admissions). Instead, the United
19 States seeks exclusion of evidence introduced for the improper purpose of arguing that the outcomes of
20 the civil cases are indicative of Defendant's guilt or innocence.

21 **Second**, the United States seeks to preclude Defendant from bringing in evidence of unrelated
22 business disputes involving the victim entities and their representatives, including that sought to be
23 admitted for improper character evidence purposes.

24 Based on the United States's review of the evidence and conversations with opposing counsel,
25 the United States believes Defendant seeks to introduce evidence of unrelated business disputes.
26 Defendant purportedly wants to introduce evidence that the victim entities and their representatives
27 engaged in unfair business practices, including as described in the related civil action.
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1 As detailed in the argument section, however, such evidence is irrelevant, constitutes
2 impermissible character evidence, while its minimal probative value is substantially outweighed by the
3 significant risk of unfair prejudice and likelihood of confusing and misleading the jury.

4 **Third**, the United States seeks to exclude argument of the affirmative defense of duress.

5 Based on the United States’s review of the evidence and conversations with opposing counsel,
6 the United States believes defense may raise an untenable argument of duress. Specifically, the United
7 States believes that defense may claim that the codefendant “forced” Defendant to steal canola from the
8 victim entities.

9 As detailed in the argument section, however, Defendant cannot make out a “pre-trial offer of
10 proof” of a prima facie case of duress to allow for the introduction of such a defense to the jury.

11 **II. LEGAL STANDARD**

12 A motion in limine is a pretrial request for the Court’s guidance on the admissibility of certain
13 evidence and arguments at trial. *United States v. Heller*, 551 F.3d 1108, 1111 (9th Cir. 2009) (“The
14 term ‘in limine’ means ‘at the outset.’”); *United States v. Castro-Cabrera*, 452 F. App’x 789, 792 (9th
15 Cir. 2011) (affirming motion in limine excluding certain evidence and argument at trial). Trial courts
16 have wide discretion in deciding such motions and may even “change [its] mind during the course of a
17 trial.” *Ohler v. United States*, 529 U.S. 753, 758 (2000); *see also Luce v. United States*, 469 U.S. 38, 41
18 n.4 (1984) (explaining limine ruling are grounded in trial courts’ “inherent authority to manage the
19 course of trials”). Courts, however, should not use motions in limine to “resolve factual disputes or
20 weigh evidence.” *United States v. Haischer*, No. 2:11-CR-00267-MMD, 2012 WL 5199148, at *1 (D.
21 Nev. Oct. 18, 2012).

22 **III. ARGUMENT**

23 **A. Evidence of the Settlements/Outcomes of the Related Civil Cases and the** 24 **Negotiations Therefrom Should Be Excluded**

25 The Court should exclude any evidence of settlement discussions and the ultimate outcomes
26 (including insurance payouts) from the related civil cases. This exclusion should also preclude any
27 argument that such evidence is indicative of Defendant’s guilt or innocence.
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1. Evidence is Irrelevant to Criminal Case

The settlement discussions and the resulting settlements in the related civil cases are inadmissible as irrelevant evidence. *See* Fed. R. Evid. 402 (“Irrelevant evidence is not admissible.”). In this criminal case, the jury will be tasked with determining whether Defendant committed wire fraud while conspiring with his co-defendant to do so. That Defendant and the other parties to the civil lawsuits agreed to settle their civil disputes, the discussions leading up to the agreements, and the eventual terms of the agreements do not tend to prove any “facts . . . of consequence” in the criminal case. *See* Fed. R. Evid. 401. Parties decide to forego or discontinue civil litigation and settle for a myriad of reasons, including those entirely irrelevant to criminal proceedings. *See, e.g.,* Fed. R. Evid. 408, Advisory Committee Notes (1972) (“[E]vidence of an offer to compromise a claim is . . . irrelevant, since the offer may be motivated by a desire for peace rather than from any concession of weakness of position.”); *Hat v. Depositors Ins. Co.*, 339 F. App’x 764, 765 (9th Cir. 2009) (“[P]arties settle for reasons that often have nothing to do with a claim’s actual value.”). Parties often also agree to even unfavorable terms for reasons beyond the merits of their cases. *See Fisher v. Kelly*, 105 F.3d 350, 353 (7th Cir. 1997) (“[T]here are reasons for parties to settle that are wholly unrelated to the substance and issues involved in the litigation. A suit may be groundless, and settled for its nuisance value, or settled by a party for wholly gratuitous reasons.” (alteration and citation omitted)). That Defendant may have been given an insurance payout, as part of a settlement agreement, for example, therefore does not tend to prove that the alleged product was destroyed by rain rather than stolen.

The Court should therefore exclude the settlement related evidence from the related civil cases as inadmissible irrelevant evidence. *See also United States v. Bailey*, 327 F.3d 1131, 1146 (10th Cir. 2003) (“[W]e believe that the potential impact of evidence regarding a civil settlement agreement is even more profound in criminal proceedings than it is in civil proceedings.” (quoting *State v. Gano*, 92 988 P.2d 1153, 1159 (Haw. 1999))).

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2. Evidence is Inadmissible Pursuant to Rule 408

Evidence regarding the settlements of the related civil lawsuits is also specifically barred by Federal Rule of Evidence 408(a). *See United States v. Worman*, No. 2:23-CR-00136, 2024 WL 3347353, at *5 (D. Idaho July 9, 2024) (“Rule 408 . . . is typically applied to exclude evidence of civil

1 negotiations in a subsequent criminal prosecution.”). “Under Rule 408(a), evidence of a settlement or
2 from settlement negotiations is inadmissible when offered ‘to prove or disprove the validity or amount
3 of a disputed claim or to impeach by a prior *inconsistent* statement or a contradiction.’” *ACTCA v.*
4 *Rhythm Pharms., Inc.*, No. 2:22-CV-01127, 2023 WL 5748415, at *5 (C.D. Cal. Aug. 24, 2023) (citing
5 Fed. R. Evid. 408(a) and emphasis in original). And while there are exceptions to Rule 408(a),
6 Defendant does not proffer any argument that would merit their application. *See* Fed. R. Evid.
7 408(a)(2), (b). The underlying civil cases, for instance, did not involve negotiations “related to a claim
8 by a public office in the exercise of its regulatory, investigative, or enforcement authority.” *Worman*,
9 2024 WL 3347353, at *3 (“[S]uch evidence [may] be admitted ‘when offered in a criminal case **and**
10 when the negotiations related to a claim by a public office in the exercise of its regulatory, investigative,
11 or enforcement authority.” (emphasis added and citation omitted)). There is also no indication that any
12 settlement negotiations and the resulting settlements would be relevant to “proving a witness’s bias or
13 prejudice.” *Self v. FCA US LLC*, No. 17-CV-01107, 2018 WL 5999613, at *8 (E.D. Cal. Nov. 15, 2018)
14 (“[Rule 408] contains an exception permitting admission of evidence . . . ‘for another purpose, such as
15 proving a witness’s bias or prejudice, negating a contention of undue delay, or proving an effort to
16 obstruct a criminal investigation or prosecution.’” (citation omitted)).¹

17 **3. Evidence Should Be Excluded Pursuant to Rule 403**

18 Even if somehow relevant and beyond the purview of Rule 408, evidence of the
19 settlement/outcomes of the civil cases and the settlement discussions will present a significant risk of
20 unfair prejudice and is substantially likely to confuse and mislead the jury. *See* Fed. R. Evid. 403; *see*
21 *also United States v. Davis*, No. CRIM.A. 09-343, 2009 WL 3646459, at *4 (E.D. Pa. Nov. 4, 2009)
22 (“Even if the settlement agreement is offered for a proper purpose under Rule 408, the evidence is still
23 subject to a balancing analysis under Rule 403.” (collecting cases and citations omitted)). While such
24 evidence provides minimal value, as detailed above, the jury, given the overlap in issues in the civil and
25 criminal cases, is significantly likely to confuse, *inter alia*, the different claims and charges, the different
26 elements, and the different standards of proof. As lay-people, the jury is at significant risk of being

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28 ¹ The settlement discussions would also presumably have been principally between participating attorneys.

1 misled to place undue emphasis in the outcomes of the civil cases as indicative of Defendant's
2 innocence or guilt. *See United States v. Arias*, 431 F.3d 1327, 1337 (11th Cir. 2005) (“[P]ermitting the
3 admission of civil settlement offers in subsequent criminal prosecutions actually compromises the
4 accuracy of the jury’s determination.”).

5 The Court should therefore exclude such evidence as its probative value is substantially
6 outweighed by the danger of unfair prejudice, and substantial risk of confusing and misleading the jury.
7 *See, e.g., United States v. Sinclair*, 74 F.3d 753, 757 (7th Cir. 1996) (no abuse of discretion where
8 district court excluded testimony involving legal issues raised in related civil suits under Rule 403
9 because the evidence “could confuse or distract the jury”); *United States v. Anderson*, 933 F.2d 1261,
10 1276 (5th Cir. 1991) (finding no abuse of discretion where district court excluded evidence of related,
11 pending civil lawsuit under Rule 403 “because it would confuse the issues for the jury or unduly
12 consume time”); *United States v. Thompson*, No. CR19-159-RSL, 2022 WL 2056234 at *4 (W.D. Wash.
13 June 7, 2022) (excluding evidence of related class action settlement under Rule 403 because “the jury
14 may be unduly swayed by the large amount of money involved and the fact that [the relevant party]
15 agreed to the settlement”); *United States v. Park*, No. CR 08-00220 MMM, 2008 WL 2338298 at *7
16 (C.D. Cal. May 27, 2008) (excluding evidence of related civil settlement at criminal trial because the
17 evidence would “result in distraction and jury confusion”); *United States v. Wittig*, No. 03-40142JAR,
18 2005 WL 1227938 at *3 (D. Kan. May 23, 2005) (granting government’s motion in limine to exclude
19 reference to related civil arbitration because a “criminal trial is not the appropriate venue to try the civil
20 arbitration proceeding” and “injecting the civil arbitration into the criminal trial will confuse issues and
21 the jury”).

22 **4. Evidence from the Civil Cases that is Otherwise Relevant and Admissible**

23 To be clear, the United States is not seeking to exclude all evidence that was part of the related
24 civil proceedings. Any evidence in the civil cases that is otherwise relevant and admissible should not
25 be excluded. *But see United States v. Pitt-DesMoines, Inc.*, No. 96 CR 513, 1997 WL 525372, at *1-2
26 (N.D. Ill. July 31, 1997) (excluding as hearsay at criminal trial prior civil citation and civil complaint);
27 *United States v. Kail*, 535 F. Supp. 3d 888, 892 (N.D. Cal. 2021) (“The parties do not dispute that
28 [statement made in related civil suit] is...hearsay.”); *United States v. Shayota*, 15-CR-00264-LHK, 2016

1 WL 6093238 at *7 (N.D. Cal. Oct. 19, 2016) (explaining that there was “no dispute” that statements
2 made in the course of related civil action were hearsay to the extent they were introduced for the truth of
3 the matter asserted in the criminal case).

4 **B. Defendant should be Precluded from Introducing Evidence of Unrelated Business**
5 **Disputes**

6 The Court should preclude Defendant from introducing evidence of unrelated business disputes
7 between Defendant and the victim entities and their representatives. Based on conversations with
8 defense, the United States believes Defendant desires to argue that the victim entities and their
9 representatives treated him unfairly.

10 **1. Evidence is Irrelevant to Criminal Case**

11 Evidence of unrelated business disputes, by definition, are not relevant to proving or disproving
12 the criminal charges or defenses thereto. A failure by the victim entities and their representatives to pay
13 invoices on time, for example, does not tend to prove any of charges in the indictment. As a criminal
14 matter, such failure also does not give rise to a civil defense such as the affirmative defense of unclean
15 hands. *United States v. Tanke*, No. 209CR0293WBSKJNP, 2016 WL 6248413, at *4 (E.D. Cal. Oct. 26,
16 2016) (“The doctrine of unclean hands is not available as a defense in criminal cases.”).² And a mere
17 business dispute does not allow for the application of criminal affirmative defenses such as
18 “justification.” *See United States v. Gomez*, 92 F.3d 770, 775 (9th Cir. 1996) (requiring, *inter alia*, an
19 “unlawful and present threat of death or serious bodily injury” and “no reasonable legal alternative for
20 the defense of justification). As a result, the evidence of unrelated business disputes is inadmissible as
21 irrelevant evidence.

22 **2. Evidence is Impermissible Character Evidence**

23 The Court should also preclude Defendant from introducing evidence of unrelated business
24 disputes as impermissible character evidence. Based on discussions with the defense, Defendant may
25 argue that the witness representatives of the victim entities acted unfairly towards him and his company

26 ² *report and recommendation adopted*, No. 214CV01243WBSKJN, 2016 WL 7159287 (E.D. Cal. Dec.
27 8, 2016), *vacated*, No. 2:09-CR-0293 WBS, 2017 WL 2992530 (E.D. Cal. Jan. 30, 2017), and *report*
28 *and recommendation adopted*, No. 2:09-CR-0293 WBS KJN, 2017 WL 2972258 (E.D. Cal. July 12,
2017).

1 in the past and that such prior “bad acts” are consistent with the representatives’ actions as to their
2 transactions involving canola meal pellets. But subject to certain exceptions not relevant in this case,
3 Federal Rule of Evidence 404(b) prohibits “[e]vidence of any other crime, wrong, or act . . . to prove a
4 person’s character in order to show that on a particular occasion the person acted in accordance with
5 their character.”

6 **3. Evidence Should Be Excluded Pursuant to Rule 403**

7 Even if somehow relevant and not excludable as impermissible character evidence, Defendant’s
8 introduction of evidence of unrelated business disputes will present a significant risk of unfair prejudice
9 and is substantially likely to confuse and mislead the jury. *See* Fed. R. Evid. 403. While such evidence
10 provides minimal value, as detailed above, a discussion of multiple unrelated business disputes is likely
11 to confuse the jury as to what matters in the criminal case—both as to the charges at issue and relevant
12 defenses. As lay-people, the jury is also at significant risk of being misled to weigh relative wrongs of
13 Defendant and the victim entities as opposed to focusing on whether Defendant is guilty of the charged
14 criminal offenses.

15 The Court should therefore preclude Defendant from introducing such evidence as its probative
16 value is substantially outweighed by the danger of unfair prejudice, and substantial risk of confusing and
17 misleading the jury. *See ShowCoat Sols., LLC v. Butler*, No. 1:18-CV-789-ALB, 2020 WL 7084544, at
18 *1 (M.D. Ala. Jan. 16, 2020) (collecting cases where unrelated lawsuits and business disputes were
19 excluded); *see also United States v. James*, 607 F. Supp. 3d 246, 255 (E.D.N.Y. 2022) (“[A] defendant
20 may not advance a ‘blame the victim’ defense.” (citation omitted)).

21 **C. Any evidence and argument as to Duress should be excluded**

22 The Court should exclude any evidence and argument of duress. Specifically, the Court should
23 exclude any argument of duress related to Defendant’s co-defendant.

24 The Ninth Circuit has “long held that a defendant is not entitled to present a duress defense to the
25 jury unless the defendant has made a prima facie showing of duress in a pre-trial offer of proof.” *United*
26 *States v. Vasquez-Landaver*, 527 F.3d 798, 802 (9th Cir. 2008) (citation omitted). “Absent such a prima
27 facie case, evidence of duress is not relevant.” *Id.* (citation omitted). “While the constitutional right to
28 testify permits a defendant to choose whether or not to take the witness stand, it does not authorize a

1 defendant to present irrelevant testimony.” *Id.* (citation omitted). “Accordingly, a district court may
2 exclude evidence on duress and may refrain from providing a jury instruction on duress where the
3 defendant’s proffer failed to make a prima facie showing of the required elements.” *Id.* (citation
4 omitted).

5 “A defendant must establish three elements in order to present [a duress] defense: (1) an
6 immediate threat of death or serious bodily injury, (2) a well-grounded fear that the threat will be carried
7 out, and (3) lack of a reasonable opportunity to escape the threatened harm.” *Id.* (citation omitted and
8 alteration in original). “The type of duress or coercion that will excuse the commission of a criminal act
9 must be immediate and of such nature as to induce a well-grounded apprehension of death or serious
10 bodily injury if the act is not done.” *Id.* (citation and internal quotation marks omitted). “Of crucial
11 importance in any attempt to raise duress as a defense are the elements of immediacy and opportunity to
12 avoid the act.” *Id.* (citation omitted).

13 “To establish the element of immediacy, a defendant must make a prima facie showing that the
14 defendant completed the illegal action under a threat of immediate harm to the defendant or the
15 defendant’s family.” *Id.* “Under this test, the threat to the defendant or the defendant’s family must be
16 present, immediate, or impending, such that the defendant’s persecutors figuratively held a gun to his
17 head (or to his family’s heads) compelling the defendant to commit the illegal action.” *Id.* (citations and
18 internal quotation marks omitted). “A threat raising the possibility of action after thirty days does not
19 meet the requirements of immediacy.” *Id.* (citations omitted).

20 Undisputedly, Defendant cannot make out a pre-trial offer of proof of a prima facie case of
21 duress. Defendant has never claimed that his co-defendant threatened him with death or serious bodily
22 injury. In a related civil case, Defendant, in fact, admitted that his co-defendant had never “threatened”
23 or scared him in any way regarding the potential disclosure of the payments made to the co-defendant
24 over the years.³ Not concerned with death or serious bodily injury, Defendant may attempt to argue
25 duress based on the potential financial ruin of his company. Defendant claims that refusing to sell the
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28 ³ If Defendant disputes this claim, the United States will submit a copy of the relevant deposition
testimony to the Court.

1 canola meal pellets and other products at the behest of his co-defendant would have led to financial ruin
2 for his company. But a viable duress defense again requires a threat of death or serious bodily injury.

3 **IV. CONCLUSION**

4 For the reasons set forth above, the Court should grant the United States' motion in limine to
5 exclude evidence.

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7 DATED: October 6, 2025

Respectfully submitted,

8 ERIC GRANT
9 United States Attorney

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11 CHAN HEE CHU
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13 Assistant United States Attorney
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